IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WP(C).No. 40670 of 2003(N)

PETITIONER:

P.GOPALAN NAIR, S/O.K.CHANDRAN NAIR,
CHENEKKOD, HIDAYATH NAGAR.P.O.,
KASARAGOD DISTRICT.

BY ADV. SRI.K.SHRIHARI RAO
SRI.B.R.MURALEEDHARAN

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
ITS SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT, SECRETARIAT,
TRIVANDRUM.

2. THE DISTRICT COLLECTOR, KASARAGOD

3. THE MADHUR GRAMA PANCHAYATH,
REPRESENTED BY ITS SPECIAL GRADE
SECRETARY, MADHUR, KASARAGOD DISTRICT.

4. THE VICAR, ST:JOSEPH CHURCH,
KOTTAKANI ROAD, KASARAGOD.

BY ADV. SRI.GRASHIOUS KURIAKOSE
SRI.K.A.LALAN
SRI.M.THAMBAN
SMT.T.SUDHAMANI
GOVERNMENT PLEADER SRI.MANOJ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.40670/03

A P P E N D I X

PETITIONER'S EXHIBITS :

EXT.P1: TRUE COPY OF THE RESOLUTION DT. 5.1.2000 OF THE 3RD RESPONDENT.

EXT.P2 : TRUE COPY OF THE JUDGMENT DT. 13.1.2000 IN O.P.NO.603/00 OF THIS HON'BLE COURT.

EXT.P3 : TRUE COPY OF THE ORDER DT. 5.12.01 OF THE 3RD RESPONDENT.

EXT.P4 : TRUE COPY OF THE MEMORANDUM OF APPEAL DT. 16.1.2002 OF THE 4TH RESPONDENT.

EXT.P5 : TRUE COPY OF THE LETTER DT. 4.9.2002 OF THE FIRST RESPONDENT.

EXT.P6 TRUE COPY OF THE NEWS ITEM DT. 14.7.2003 APPEARED IN THE MALAYALAM DAILY, KARAVAN.

EXT.P7 TRUE COPY OF THE RESOLUTION OF THE THIRD RESPONDENT.

EXT.P8 TRUE COPY OF THE ORDER DT. 8.12.2003 OF THE FIRST RESPONDENT.

RESPONDENTS' EXHIBITS :

EXT.R4(A): TRUE COPY OF THE SKETCH OF THE SITE AND THE NEARBY AREAS SHOWING THE NEAREST HOUSES.

TGS

KURIAN JOSEPH, J.

W.P.(C) No.40670 of 2003

Dated 21st March, 2007.

J U D G M E N T

Challenge is on Ext.P8 order passed by the Government in the matter of grant of licence to set up a concrete type cemetery by the 4th respondent. The main grievance of the petitioner is that the Government has relied on the materials collected after the matter was considered by the District Collector and the petitioner did not have any opportunity to know of the contends of such reports. To that extent there appears to be no dispute, since the reports relied on are subsequent to the consideration by the District Collector. Learned Government Pleader submits that the reports were collected only to assess the factual position and going by the reports, there is no residential house within the objectionable distance and that the cemetery as such will not cause any problem in the locality. Since the petitioner has a case that he was not put to notice of such a report, it is only appropriate that the matter is considered by the Government after permitting the petitioner also to peruse the records. I quash Ext.P8. There will be a direction to the first respondent to consider the matter afresh with notice to the

petitioner and respondents 3 and 4 and permit the petitioner to peruse the records referred to in Ext.P8, which have been collected after the matter was considered by the District Collector. Orders shall be passed within two months from the date of production of a copy of the judgment by either party.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

O.P.No. of 2002

J U D G M E N T

Dated 21st March, 2007.